

REMARKS

By this response, claims 1-22 are pending. Also, claims 1, 2, 8, 11, 12, 16, 21 and 22 are amended. All other claims remain as originally presented.

Substantively, the Examiner rejects all claims as anticipated by Tate, U.S. 5,991,774. In general, Tate concerns itself with a “method for uniquely identifying a file, along with its particular version ID, used in an application program [26] by a central processing unit [12]...” *Abstract*. In contrast to the instant invention, Tate teaches a “file seal module 40 provid[ing] data security and integrity . . . [that] **append[s]** a version string and CRC [Cyclic Redundancy Check] **at the end of the file** according to its version ID.” *Bold-added, Col. 3, ll. 18-23*. Then, “[o]nce appended, the record will be transported with the file when moved or copied.” *Col. 3, ll. 24-25*.

In one aspect, the file seal module 40 appends files with syntax having the form “SEALFILE[/[-]L] [/[-]M] [/[-]C} {/V=mm.nn.bb] [/E=xxx] [/Q] [/S].” *Col. 4, l. 9*. In another aspect, the file seal module 40 “will append a CRC record at the end of a file” including a “CRC signature.” *Col. 6, ll. 39-40 and 47*. In turn, **the “CRC signature is seven bytes long** in the form of ‘n/rXXX:.’” *Bold-added, col. 6, ll. 55-56*. Tate even goes so far as to admit its CRC “functions similar to a virus except that the [file] seal is benign.” *Col. 3, ll. 39-40*.

Bear in mind, Tate is desirous of verifying compatibility of “existing files” with “a particular file loaded into the control system,” especially in “identif[ing] its “version number.” *Col. 1, ll. 33-36*. It also does so in “a rapidly changing environment, [where] operating programs are continuously being improved.” *Col. 1, ll. 30-31*. As a result, Tate does not care whether the existing files and the newly loaded files have altered sizes or formats or not. In fact, once Tate appends a CRC or other to a file, the original file indeed has a dissimilar format and/or size from whence distributed, yet subsequent calculations account for this alteration and never lead to conclusions of alteration or incompatibility.

Rather, it leads to conclusions of compatibility. In other words, Tate absolutely changes its file size, but upon subsequent calculations, never cares or makes findings relating to this particular change.

In contrast, the Applicant's invention cares whether the executable code, having an original, unaltered size, format or state, is modified into executable code having an altered size, format or state different from the first. If different sizes exist, as borne about by calculating a first and subsequent score for the executable code, conclusions are drawn that alterations to the executable code have occurred. In turn, the executable code can then be unloaded from the operating system or disabled and owners of the unaltered executable code can be notified electronically, for example. On the other hand, if different sizes or formats do not exist, conclusions can be drawn or determinations reached that no alterations or modifications to the executable code exist. In such instances, the executable code can be used normally. Thus, the Applicant submits the patentability of all claims and requests reconsideration in view of these comments.

With more specificity, Applicant's claim 1 requires identifying executable code having an unaltered size. Then, upon performing various calculations, it is concluded that the executable code has an altered size if a subsequent score varies from a first score. Conversely, the executable code maintains its unaltered size if the two scores do not vary. Tate, on the other hand, absolutely appends syntax to files thereby changing original file sizes. In some instances, the syntax is even about seven bytes long. Yet, subsequent processing accommodates this appendage and still allows functionality of the appended file. This varies greatly from the claim at hand and the Applicant submits that no anticipation exists.

Applicant's claim 2 has been modified to depend from claim 1 as the Examiner noted in the Office Action. Claims 3-7 respectively relate to disabling the executable code;

performing checksums; receiving additional scores; disabling executable code as a function of the additional scores; and notifying owners if scores are unequal.

In Applicant's independent claim 8, it is now required to identify executable code having an unaltered format. Then, upon subsequent calculations, determining an altered format of the code and disabling same if the calculations reveal unequal scores. However, if Tate were to perform such methodologies, Tate would always have to disable its executable code because Tate always alters its original format. Thus, Tate does not operate in this fashion and cannot be said to anticipate.

Respectively, claims 9 and 10 further relate to notifying owners if code is disabled and to performing checksums. Claims 11 and 12 have been amended to replace "received" with "calculated" to better provide relationship to parent claim 8 which now recites "calculating" scores instead of "receiving" them. Claims 13-15 respectively relate to removing the code, if disabled, or loading to memory or registering, if not disabled.

Applicant's claim 16 requires identifying an executable code having an unaltered format. Then, upon subsequent calculations of scores, the code remains operational and executable if the scores do not vary from one another. Conversely, the code is indicated as having an altered format if the scores, in fact, vary from one another. Nowhere does Tate anticipate this methodology. To the contrary, Tate absolutely alters files and never indicates this alteration upon subsequent processing. While Tate does look for other alterations or modifications, Tate never bothers with its own alterations relating to file sealing.

Further, dependent claims 17 and 18 then require disabling or suspending operations of the code if the scores are unequal. Claim 19 relates to when subsequent scores are received. Claim 20 relates to reporting system events upon the occurrence of unequal scores.

Independent claims 21 and 22 recite executable code with unaltered format or size and executable code with altered format or size upon first and second scores being unequal. As before, Tate does not and cannot account for this. Rather, Tate intentionally alters files and

then upon subsequent processing does not conclude altered files exist if scores are different. Instead, Tate accounts for their intentional file alterations and concludes compatibility despite the original formats and sizes having been changed or altered. Only upon unauthorized changes or alterations will Tate then take action.

Of course, despite the above recitation of differences from Tate in each of the dependent claims, dependent claims 2-7, 9-15 and 17-20 are also submitted as being patentable because of their direct or indirect dependence upon one of the independent claims 1, 8 or 16.

Support for the amendments are found throughout the specification. For example, “identification” of the executable code is found in Figure 1, element 10 and its corresponding written description. Discussion of executable code size and format is found, for example, in the specification at *page 9, Line 13, et seq.* Namely, having an unaltered file size or format with a first checksum score and an altered file size or format with a second checksum score will lead to score variations, especially unequal first and second scores. Typically, “[a]ny variation in the initial score to a subsequently generated score will provide an indication that the data associated with the executable code has been altered.” *Applicant’s Specification, Page 9, lines 19-21.* In addition, “it is extremely unlikely that the data associated with the executable code may have been altered and yet still generate the same score as the initial score.” *Applicant’s Specification, Page 9, Line 9 - Page 10, Line 2.* Bear in mind, a preferred instance of the present invention considers the executable code “as nothing more than a series of numbers which are adjacent to one another, such that every 16 bits in the executable code is an integer. All numbers are then summed together to generate a total.” *Applicant’s Specification, Page 9, Lines 14-16.* This total is then periodically or randomly checked against subsequent calculated totals. Naturally, changes in executable code size or format correspondingly lead to changes in calculated totals or scores. Once different scores exist, unaltered executable code can be executed or acted upon normally.

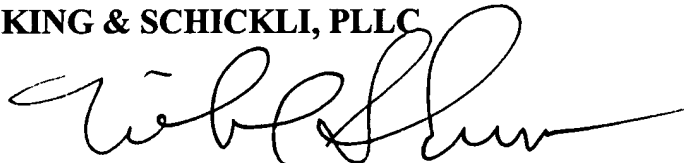
Conversely, altered executable code can be indicated as altered, disabled, prohibited from operating properly or other.

Consequently, the Applicant submits that all claims are in a condition for allowance and requests a timely Notice of Allowance to be issued for same. ***To the extent any fees are due, the undersigned authorizes the deduction from Deposit Account No. 11-0978.*** None are believed due, however, because twenty-two claims were originally paid for at the time of filing and twenty-two claims remain. The number of independent claims also remains the same as in the original filing.

Finally, the Applicant attaches herewith (Exhibit 1) a previously filed Revocation of Prior Power of Attorney and Appointment of New Power of Attorney document and requests such be entered. The document was first filed in October, 2004 along with a Status Inquiry Letter. To the undersigned's knowledge, the Patent Office has still not entered this information despite an indication of reception in the form of an October 14, 2004 date stamp. ***Also, the new attorney docket number is 1363-004.***

Respectfully submitted,

KING & SCHICKLI, PLLC



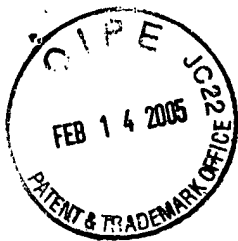
Michael T. Sanderson
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Certificate of Mailing

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on Feb 10 2005

Date 2-10-05 Carolina Perdomo



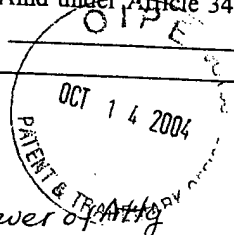
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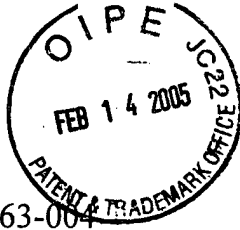
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Doc. No. 1363-004 Ser. No. 09/862,828 Applicant Novell, Inc.

The PTO acknowledges, and has stamped hereon, the date of the items checked:

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| <input type="checkbox"/> Amendment | <input type="checkbox"/> IDS/References | <input type="checkbox"/> Substitute Pages |
| <input type="checkbox"/> Supp. Declaration | <input type="checkbox"/> Small Entity | <input type="checkbox"/> Power of Attorney |
| <input type="checkbox"/> Declaration 8 & 15 | <input type="checkbox"/> Extension of Time | <input type="checkbox"/> Ltr - Amd under Article 34 |
| <input type="checkbox"/> Renewal | 1 2 3 mos. | <input type="checkbox"/> Letter |
| <input type="checkbox"/> Statement of Use | <input type="checkbox"/> Appeal Notice/Brief | |
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Docket No. 1363-004

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

NEIL W. TAYLOR

Serial No.: 09/862,828

Group Art Unit: 2182

Filed: May 22, 2001

For: METHODS FOR DETECTING EXECUTABLE
CODE WHICH HAS BEEN ALTERED

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LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached please find a comprehensive "Revocation of Prior Power of Attorney and Appointment of New Power of Attorney by Assignee of Entire Interest and Change of Correspondence" document. Because one of the ten matters relates specifically to the above-captioned matter, it is respectfully requested the document be entered.

Also, Applicant respectfully inquires into the status of the above-identified application. There has been no action on this case since the receipt of the Assignment recordation on August 13, 2001.

S.N. 09/862,828

Applicant respectfully requests that a communication indicative of the status of the above application be forwarded to the undersigned.

Respectfully submitted,

KING & SCHICKLI, PLLC



Michael T. Sanderson

Registration No. 43,082

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CERTIFICATE OF MAILING

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Carolina Perdomo

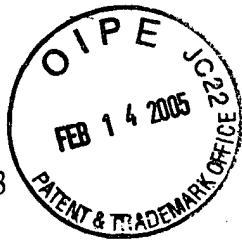
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Doc. No. 1363-004 Ser. No. 09/862,828 Applicant Novell, Inc.

The PTO acknowledges, and has stamped hereon, the date of the items checked:

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Trademark/Service Mark	Patent	PCT
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	✓ Revocation of Prior Power of Atty and Appt....	

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Docket No. 1363

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

NOVELL, INC.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REVOCATION OF PRIOR POWER OF ATTORNEY AND APPOINTMENT OF
NEW POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST AND
CHANGE OF CORRESPONDENCE**

Dear Sir:

Novell, Inc., hereby revokes all previous powers of attorney in the following patent applications and hereby appoints the following attorneys, with full power in each of them, to prosecute and transact all business in the United States Patent Office connected therewith.

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United States Patent Application S.N. 09/862,975
Filed May 22, 2001
Title: METHOD FOR DISTRIBUTING AND VALIDATING DATA
Docket No.: 1363-002

United States Patent Application S.N. 09/891,707
Filed June 26, 2001
Title: METHODS FOR INCREASING CACHE CAPACITY UTILIZING DELTA
DATA
Docket No.: 1363-003

United States Patent Application S.N. 09/862,828
Filed May 22, 2001
Title: METHODS FOR DETECTING EXECUTABLE CODE WHICH HAS BEEN
ALTERED
Docket No.: 1363-004

United States Patent Application S.N. 09/915,030
Filed July 25, 2001
Title: METHODS AND SYSTEMS FOR LICENSING ELECTRONIC DATA
Docket No.: 1363-005

United States Patent Application S.N. 09/943,786
Filed August 31, 2001
Title: METHOD AND APPARATUS FOR PRESENTING, SEARCHING AND
VIEWING DIRECTORIES
Docket No.: 1363-007

United States Patent Application S.N. 10/631,509
Filed July 31, 2003
Title: SYSTEMS AND METHODS FOR PRIVATE NETWORK ADDRESSING IN IP
PROTOCOLS
Docket No.: 1363-008

United States Patent Application S.N. 09/887,136
Filed June 22, 2001
Title: METHOD AND APPARATUS FOR CHARACTERIZING AND RETRIEVING
QUERY RESULTS
Docket No.: 1363-009

United States Patent Application S.N. 10/073,571
Filed February 11, 2002
Title: METHOD AND APPARATUS FOR MAINTAINING PERIPHERAL DEVICE
SUPPORT INFORMATION
Docket No.: 1363-010

United States Patent Application S.N. 10/402,603
Filed March 28, 2003
Title: METHOD AND SYSTEMS FOR FILE REPLICATION UTILIZING
DIFFERENCES BETWEEN VERSIONS OF FILES
Docket No.: 1363-011

United States Patent Application S.N. 10/408,295
Filed April 7, 2003
Title: UTILITY BASED FILTERING MECHANISM FOR PMTU PROBING
Docket No.: 1363-012

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Warren D. Schickli, Registration No. 31,057; Michael S. Hargis, Registration No. 42,631; Andrew D. Dorisio, Registration No. 41,713; Michael T. Sanderson, Registration No. 43,082; James D. Liles, Registration No. 28,320; J. Ralph King, Registration No. 22,489; and Patrick M. Torre, Registration No. 55,684, all of which are attorneys in the firm of King & Schickli, PLLC, 247 North Broadway, Lexington, Kentucky, 40507, Telephone Number (859) 252-0889 and Patrick McBride, Registration No. 39,295, Intellectual Property Counsel, Novell, Inc., 1800 South Novell Place, Mailstop PRV F331, Provo, Utah 84606.

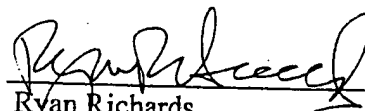
Please send all future communication for this application to:

Michael T. Sanderson, Esq.
King & Schickli, PLLC
247 North Broadway
Lexington, Ky 40507
(859) 252-0889

7 of 7

9/27/04
Date

Respectfully Submitted,


Ryan Richards
Vice-President and Deputy
General Counsel